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TREASURY FOR LUKAS KOHLER

E.O. 12958: N/A  
TAGS: ECON ETRD KIPR KE  
SUBJECT: KENYA: 2006 SPECIAL 301 NOTIFICATION

REF: State 66905

¶1. (SBU) Summary: In response to U.S. concerns about the worsening counterfeiting problem in Kenya, the country's top trade bureaucrat acknowledged the government's weaknesses in adequately enforcing IPR, and showed interest in working with the USG and the U.S. private sector to improve the situation. End summary.

¶2. (U) Econ/C and Econoff delivered reftel talking points on May 2 to David Nalo, Permanent Secretary in Kenya's Ministry of Industry and Trade. Joining Nalo was Elijah Manyara, Deputy Director for External Trade.

¶3. (SBU) Econ/C emphasized that while Kenya is not listed in the 2006 Special 301 Review, it missed doing so by a whisker, and would be closely scrutinized in the coming year in anticipation of the 2007 review. He also emphasized that the problem of counterfeit goods was worsening in East Africa, and not only harmed U.S. firms, but also Kenyan consumers and Kenya's investment climate.

¶4. (SBU) Econ/C added that the newly-formed American Chamber of Commerce in Kenya (ACCK) was elevating the issue of counterfeiting in its advocacy efforts with both the U.S. and Kenyan governments. Econ/C suggested that the ACCK would make a useful partner for the GOK as it moves to improve its capacity to enforce IPR protection. In this light, Econ/C noted the possibility that the ACCK, in partnership with the U.S. National Chamber of Commerce, is hoping to hold a regional IPR enforcement conference in Nairobi later in the year.

¶5. (SBU) Nalo had little substantive reaction to reftel points, but asked about the Special 301 process. Econ/C explained it and followed up later by passing a generic background paper cut and pasted from reftel. Nalo was cognizant, however, of the problem of inadequate protection of IPR in Kenya, and acknowledged the Kenyan Government needs to have a better coordinating mechanism in this regard. He said that although individual GOK agencies have their legal authorities to deal with specific aspects of IPR violations, the government lacks a central coordinating body that is legally empowered to direct an interagency effort on IPR policy and enforcement matters.

¶6. (SBU) Nalo was interested in the ACCK's proposal to hold a regional IPR conference in Nairobi and also suggested USAID should support anti-piracy capacity

building in Kenya, as it did for the Central Bureau of Statistics in the past. (Note: A trained economist, Nalo is an ex-Director of the CBS and is credited with revamping the agency during his tenure. End note). Money is less a factor in this regard than expertise, said Nalo, who added that Kenya could profit simply from foreign experts offering best practices. [Note: Post has been active in responding to requests for host country participants to the Global Intellectual Property Academy (GIPA) courses offered through the United States Patent and Trademark Office's (USPTO). To date, two Kenyan IPR enforcement officials have been through the Academy and three more are scheduled to do so in the near future. End Note.] BELLAMY